

FILED

SEP 04 2014

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN LANNY LYNCH,

Defendant.

Cause No. CR 99-18-M-DWM

ORDER DENYING MOTION AND
DENYING CERTIFICATE OF
APPEALABILITY

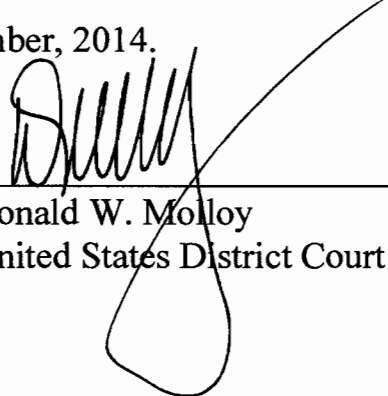
On June 4, 2014, Defendant John Lanny Lynch moved for correction of his sentence. Lynch is a federal prisoner proceeding pro se.

Lynch purports to rely on Fed. R. Civ. P. 60(b)(6). His motion is plainly an unauthorized successive motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. *See* Order (Doc. 223); Order (Doc. 239); *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005). So recharacterized, it is dismissed for lack of jurisdiction. *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam). A certificate of appealability is not warranted as no reasonable jurist could find Lynch was authorized to file the motion in this Court. Further, *Alleyne v. United States*, ___ U.S. ___, 133 S. Ct. 2151, 2155 (2013), has no bearing on this case, as cross-referencing to the murder guideline affected neither the statutory maximum sentence nor the statutory minimum sentence.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Lynch's motion (Doc. 243) is RECHARACTERIZED as a motion under 28 U.S.C. § 2255. The Clerk of Court shall open a civil file.
2. So recharacterized, the motion is DISMISSED for lack of jurisdiction.
3. A certificate of appealability is DENIED.
4. The Clerk shall enter a judgment of dismissal in the civil case.
5. This Court will not entertain motions for reconsideration of this decision or amendment or supplementation of the motion. If Lynch has a remedy against this Order, it lies in appeal to the Ninth Circuit Court of Appeals.

DATED this 31 day of September, 2014.



Donald W. Molloy
United States District Court